

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

8 JAMES KENNETH MCCALLUM,  
9 Plaintiff,  
10 v.  
11 OFFICER HORLACHER,  
12 Defendant.  
13

2:14-cv-459-RCJ-CWH

## ORDER

14 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state  
15 prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1).  
16 Based on the financial information provided, the Court finds that Plaintiff is unable to prepay  
17 the full filing fee in this matter.

18 The Court entered a screening order on April 29, 2014. (ECF No. 2). The screening  
19 order imposed a 90-day stay and the Court entered a subsequent order in which the parties  
20 were encouraged to engage in informal settlement discussions. (ECF No. 2, 4). The Office  
21 of the Attorney General has filed a status report indicating that settlement has not been  
22 reached and informing the Court of its intent to proceed with this action. (ECF No. 6).

For the foregoing reasons, IT IS ORDERED that:

24       1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is GRANTED.  
25 Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this  
26 action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

27       2. The movant herein is permitted to maintain this action to conclusion without the  
28 necessity of prepayment of any additional fees or costs or the giving of security therefor. This  
order granting leave to proceed *in forma pauperis* shall not extend to the issuance of

1 subpoenas at government expense.

2       3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall  
3 pay to the Clerk of the United States District Court, District of Nevada, 20% of the preceding  
4 month's deposits to Plaintiff's account (**James McCallum, #96779**), in the months that the  
5 account exceeds \$10.00, until the full \$350.00 filing fee has been paid for this action. The  
6 Clerk of the Court shall **SEND** a copy of this order to the Finance Division of the Clerk's Office.  
7 The Clerk of the Court shall also **SEND** a copy of this order to the attention of the Chief of  
8 Inmate Services for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV  
9 89702.

10     4. The Clerk of the Court shall electronically **SERVE** a copy of this order and a copy  
11 of Plaintiff's complaint (ECF No. 3) on the Office of the Attorney General of the State of  
12 Nevada, attention Kat Howe.

13     5. Subject to the findings of the screening order (ECF No. 2), within **twenty-one (21)**  
14 **days** of the date of entry of this order, the Attorney General's Office shall file a notice advising  
15 the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service; (b) the  
16 names of the defendants for whom it does not accept service, and (c) the names of the  
17 defendants for whom it is filing last-known-address information under seal. As to any of the  
18 named defendants for which the Attorney General's Office cannot accept service, the Office  
19 shall file, *under seal*, the last known address(es) of those defendant(s) for whom it has such  
20 information.

21     6. If service cannot be accepted for any of the named defendant(s), Plaintiff shall  
22 file a motion identifying the unserved defendant(s), requesting issuance of a summons, and  
23 specifying a full name and address for the defendant(s). For the defendant(s) as to which the  
24 Attorney General has not provided last-known-address information, Plaintiff shall provide the  
25 full name and address for the defendant(s).

26     7. If the Attorney General accepts service of process for any named defendant(s),  
27 such defendant(s) shall file and serve an answer or other response to the complaint within **sixty**  
28 **(60) days** from the date of this order.

1       8. Henceforth, Plaintiff shall serve upon defendant(s) or, if an appearance has been  
2 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other document  
3 submitted for consideration by the Court. Plaintiff shall include with the original paper  
4 submitted for filing a certificate stating the date that a true and correct copy of the document  
5 was mailed to the defendants or counsel for the defendants. If counsel has entered a notice  
6 of appearance, Plaintiff shall direct service to the individual attorney named in the notice of  
7 appearance, at the address stated therein. The Court may disregard any paper received by  
8 a district judge or magistrate judge which has not been filed with the Clerk, and any paper  
9 received by a district judge, magistrate judge, or the Clerk which fails to include a certificate  
10 showing proper service.

11

12       DATED: This 30th day of July, 2014.

13

14

15         
C.W. Hoffman, Jr.  
United States Magistrate Judge

16

17

18

19

20

21

22

23

24

25

26

27

28